

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRED CORTLAND PROCTOR, et. al.,

Plaintiffs,

vs.

Case No. 07-12414

Paul D. Borman
United States District Judge

L. APPLGATE, et al.,

Defendants.

Michael Hluchaniuk
United States Magistrate Judge

ORDER (1) GRANTING PLAINTIFF CHANDLER'S APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES ON APPEAL (DKT. NOS. 278, 284) AND
(2) DENYING AS DUPLICATIVE PLAINTIFFS PETERSEN, JIVIDEN
AND PROCTOR'S APPLICATIONS TO PROCEED WITHOUT PREPAYMENT
OF FEES ON APPEAL (DKT. NOS. 285, 286, 287)

This matter is before the Court on Plaintiffs Petersen, Jividen and Proctor's applications to proceed without prepayment of fees on appeal. (Dkt. Nos. 285, 286, 287.) Previously, Plaintiff Chandler had filed a motion to proceed without prepayment of fees on July 21, 2011 (Dkt. No. 278), which this Court denied without prejudice because Chandler failed to attach the required information relating to his prison trust fund account. (Dkt. No. 282.) Thereafter, on August 12, 2011, Plaintiff Chandler provided the Court with his Prison Trust Fund Account Statement. (Dkt. No. 284.)


On September 14, 2011, Plaintiff Chandler filed a request with this Court that the entire filing fee of \$455 be deducted from his prison account for purposes of pursuing Plaintiffs' appeal of this Court's July 11, 2011 Order Adopting the Magistrate Judge's Report and Recommendation and Dismissing Plaintiffs' Complaint (Dkt. No. 273). (Dkt. No. 288.) On September 14, 2011, this Court issued an Order Waiving Prepayment of the Appellant Filing Fee and Directing Payment of

the Initial Partial Filing Fee and Subsequent Payments, ordering that the full filing fee of \$455 be withdrawn, as directed, from Plaintiff Chandler's Prison Trust Account. (Dkt. No. 289.)

Section 1915(a)(3) provides that "[a]n appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). In the context of § 1915, "good faith" simply means "not frivolous." *Coppedge v. United States*, 369 U.S. 438, 446 (1962). The Court firmly adheres to its decision to adopt Magistrate Judge Hluchaniuk's Report and Recommendation and dismiss Plaintiffs' Complaint, but concludes that Plaintiffs' appeal of that decision may be taken in good faith.

Accordingly, the Court GRANTS Plaintiff Chandler's motion to proceed without prepayment of fees and DENIES as duplicative Plaintiffs Petersen, Jividen and Proctor's applications to proceed without prepayment of fees. The Court notes that the entire \$455 filing fee will be withdrawn from Plaintiff Chandler's Prison Trust Fund Account as set forth in this Court's September 14, 2011 Order (Dkt. No. 289).

IT IS SO ORDERED.


PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated:

9-23-11